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OAK HILL BANKS

A Full Service Bank · Member F.D.I.C.

Banking In Your Best Interest

P. O. Box 688 · 14621 State Route 93
Jackson, Ohio 45640
(740) 286-3283

2005 SEP 20 AM 9 59

September 16, 2005

Honorable Donald E. Powell
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Mr. John F. Carter
Regional Director
Federal Deposit Insurance Corporation
25 Jessie Street at Ecker Square, Suite 2300
San Francisco, California 94105

Re: Comments Regarding FDIC Application #20051977: Wal-Mart Application for Insurance and Industrial Bank Charter

Dear Chairman Powell and Director Carter:

Oak Hill Banks expresses its opposition to Wal-Mart Stores, Inc. application for a Utah Industrial Bank or Industrial Loan Company Charter (ILC) and Federal Deposit Insurance Coverage.

While Wal-Mart states that the ILC would only be used to process debit and credit transactions at its 3,700 plus stores, the ILC could introduce a future amendment to provide other banking services such as, retail banking services, loans, and Wal-Mart bank branches. The potential of a retail giant like Wal-Mart entering the banking business violates the restriction of mixing commerce and banking. We oppose a commercial firms' ability to start or purchase an Industrial Loan Company.

Wal-Mart has a history of attempting to enter the banking industry. This is despite of existing regulatory restrictions preventing the mixing of banking and commerce. Congress took action as a result of Wal-Mart's efforts to purchase a small thrift institution in Broken Arrow, Oklahoma in 1998. The Gramm-Leach-Bliley Act of 1999 closed the unitary thrift holding company loophole and prohibits commercial firms from owning or acquiring savings associations as likewise they are prohibited from owning banks. In 2002, Wal-Mart again attempted to enter the banking industry by seeking to purchase a small California Industrial Bank. The California legislature stopped the purchase by passing a law disallowing commercial firms from owning ILCs.

Locally owned retailers in small towns and communities across America are many times negatively impacted when Wal-Mart stores enter their market area. With its history of de-stabilizing local retailers, Wal-Mart banking institutions could drive out community banks the same way that it has driven out community grocery stores, pharmacies, and hardware stores.

As advocates for the American consumer, we believe that customers would be adversely affected by a Wal-Mart Bank. Customers would be evaluated only on their credit scores, and the local bank-customer relationship would be non-existent. Consumer choices would be limited. More importantly, bank deposits could be directed out of the community, negatively affecting local lending policies and community support projects.

Oak Hill Banks requests the FDIC to hold regional public hearings to examine this issue. It is critical that other viewpoints be heard including those from banking trade associations and the general public.

In conclusion, Oak Hill Banks opposes Wal-Mart's application for an ILC and federal deposit insurance coverage. We urge the FDIC to deny the application.

Sincerely,

Scott J. Hinsch, Jr.

Scott J. Hinsch, Jr.
President

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OAK HILL BANKS

A Full Service Bank · Member F.D.I.C.

Banking In Your Best Interest

120 Twin Oaks Drive • P. O. Box 647
Jackson, OH 45640
(740) 288-9908
Fax (740) 288-1121

2005 SEP 19 AM 10 10

FDIC San Francisco Regional Office
Director John F. Carter
25 Jessie Street at Ecker Square
Suite 2300
San Francisco, CA 94105

RE: Comments Regarding FDIC Application #20051977; Wal-Mart Application for Insurance and Industrial Bank Charter

Dear Mr. Carter:

On behalf of the Directors, Officers and Employees of Oak Hill Banks, a $1.2 billion Community Bank in Jackson, Ohio, I am writing to comment on the Wal-Mart Stores, Inc. application for a Utah industrial bank or industrial loan company charter (ILC) and federal deposit insurance. We oppose the application and urge the FDIC to deny the application.

Oak Hill Banks is a member of the Independent Community Bankers Association, The Ohio Bankers League and The Community Bankers Association of Ohio. These organizations represent over 5,000 banks in our great nation and strongly represent us as a voice of opposition to the Walmart application. However, we are compelled to also individually voice our opinion of opposition.

We agree with all the reasons previously presented to the FDIC for denial of the Walmart application. For review, these items are:

1. Wal-Mart's current Business Plan is narrowly described.
2. Inherent conflict of interest in mixing banking and commerce.
3. Impact on consumer, community disinvestment.
4. Safety & soundness concerns.
5. Holding company concerns.

As a mid-size bank headquarted in the Appalachia area of Southern Ohio we are greatly concerned about the compound affect a Wal-Mart Bank would have on us. We have already seen the reduction in local competitors with the continued expansion of Wal-Mart Super Stores. They are becoming the largest employer of retailers in many of our market areas. They are building a monopoly. Defensively, to stay in the high diversity market of retailers, we currently lease office space within two Wal-Mart Super Stores. We are confident that should they be issued a license for banking, they will replace our banking outlets with their controlled banking franchise. This will be the beginning of their capitalizing on controlling a large section of the banking industry on a national scale.

The FDIC is in the position to deny Wal-Mart the opportunity to begin another phase of Monopoly. Numerous small towns and communities have experienced the devastating loss of locally owned and operated retailers, and disinvestment after Wal-Mart establishes a store on the outskirts of town. The Wal-Mart store in essence becomes the new "downtown" once the town center has been depleted of visible competitions. Is their next step the control of the banking industry?

As CEO of Oak Hill Banks I urge the FDIC to reject Wal-Mart's application for federal deposit insurance for a Wal-Mart ILC. The application presents serious public policy issues inherent in the mixing of banking and commerce.

Although Wal-Mart professes a narrow business plan for the ILC, the application nonetheless presents very serious public policy issues regarding the appropriate structure of our financial and economic system. The application by the world's largest company – with $290 billion in revenue, 3,600 U.S. retail stores, 1.25 million U.S. employees, and more than 100 million customers a week – presents issues involving the mixing of banking and commerce, impartial allocation of credit, economic concentration, banking supervision, extension of the federal safety net and losses to taxpayers and community disinvestment.

Wal-Mart's current business plan for the ILC is narrowly described as providing back office processing of credit card, debt card and electronic check transactions in a Wal-Mart store.

While the application itself is narrowly drawn, Wal-Mart has had a well-publicized mission to get into the banking business despite the existing legal and regulatory barriers established on long-held public policy grounds to prevent the full blow mixing of banking and commerce in our nation. Wal-Mart's repeated past attempts to gain a foothold in banking and combine full-service banking with its retail operations on a nationwide basis give rise to skepticism about its current narrow business plan.

In 1998, Wal-Mart attempted to purchase a small unitary thrift institution in Broken Arrow, Oklahoma. The Congress shut down this back-door approach for a commercial firm to enter the banking business when it passed the Gramm-Leach-Bliley Act of 1999 and reaffirmed our nation's policy of separating banking and commerce by closing the "unitary thrift holding company" loophole and prohibiting commercial firms from owning or acquiring savings associations (as they are prohibited from owning banks.)

Wal-Mart later sought to enter banking through an arrangement with Toronto-Dominion Bank USA to offer banking services in 100 Wal-Mart stores. This attempt was blocked by the Office of Thrift Supervision, which objected to Wal-Mart's plan to share profits with TD Bank and have its retail store employees perform banking transactions for TD Bank in their stores. OTS found such an arrangement would give Wal-Mart illegal control over TD Bank USA, circumventing the Gramm-Leach-Bliley Act prohibition on a commercial firm becoming a savings and loan holding company.

Lastly, Wal-Mart sought to purchase a small California industrial bank in 2002. In the face of Wal-Mart's application, the California legislature blocked the acquisition by passing a law prohibiting commercial firms from owning ILCs.

Despite any current non-legally binding pledges from Wal-Mart regarding its business plan for a Utah ILC – such as a "no branching" pledge – we see nothing to prevent Wal-Mart from chartering the ILC on a narrow business plan, and later seeking the approval of the Utah Department of Financial Institutions and the FDIC to expand its business and conduct full service banking in its stores. We also see nothing to prevent any conditions placed on the approval of a narrow charter by the Utah DFI being removed in the future upon application by the Wal-Mart ILC.

The linchpin of the financial and economic system of the United States is the principle of the separation of banking and commerce. This tradition has resulted in the most vibrant, successful and diversified economic and financial system in the world. The walls separating banking and commerce prevent conflicts of credit so vital to economic growth and development and to a safe and sound financial system.

The Wal-Mart application presents a prime example of the dangers of concentration of resources and impaired credit availability that flow from allowing a commercial company such as Wal-Mart to own a bank or ILC. And in Wal-Mart's particular case, these dangers are amplified because of the company's enormous size, market clout and role in destroying the vitality of many small town centers.

Numerous small towns and communities have experienced the devastating loss of locally-owned and operated retailers, and disinvestment after Wal-Mart establishes a store on the outskirts of town. The Wal-Mart store in essence becomes the new "downtown" once the town center has been depleted of viable competitors. Indeed Wal-Mart Supercenters house under one roof full-line grocery stores along with the 36 general merchandise departments of Wal-Mart (including clothing, health and beauty aids, household, electronics, toys, lawn and garden, jewelry, pharmacy, snack bar or restaurant and shoes), plus specialty shops such as a vision center, tire and lube services, photo processing, dry cleaner, beauty parlor, video rental, etc. Various retail outlets competing with Wal-Mart have charged it engages in predatory pricing practices to capture market share, then raises prices once competitors have been eliminated. See e.g., "Is Wal-Mart Too Powerful?" *Business Week*, October 6, 2003; "When Wal-Mart Pulls Out, What's Left?," *New York Times*, March 5, 1995; "Store Shuts Doors on Texas Town; Economic Blow for Community," *USA Today*, October 11, 1990; "Arrival of Discounter Tears Civic Fabric of Small-Town Life," *Wall Street Journal,* April 14, 1987.

Because of this common history and experience of many communities, when evaluating the application, we urge the FDIC to consider what will happen to credit availability and customer and community service when the Wal-Mart bank siphons deposits from locally-owned and operated community banks, impairing their ability to continue to support economic growth and development in their communities through lending, and driving them out of business.

Will a competing local hardware or clothing store, a local pharmacy, or someone wishing to establish a new store, be able to obtain credit from the Wal-Mart bank, or want to share its confidential business plans with the Wal-Mart bank? The Wal-Mart bank would have no incentive — in fact it would have a disincentive – to lend to businesses that compete with its parent company. Instead of making impartial credit decisions based on the creditworthiness of the borrower, the Wal-Mart bank would have incentive to deny credit, not on the merits, but because of a conflict of interest and its relationship with Wal-Mart.

Ownership by Wal-Mart would have a similar effect on the bank's decision-making with regard to credit applications by Wal-Mart suppliers. Again, instead of making credit decisions on the merits of a borrower's creditworthiness, the Wal-Mart bank would have an incentive to favor Wal-Mart's suppliers and disfavor their competitors. In fact, Wal-Mart could require its suppliers to obtain their banking and credit services from the Wal-Mart bank if they want to do business with Wal-Mart.

Consumers and households likewise will be ill-served by a Wal-Mart bank. If the past is prologue, local banks, just like local retailers in towns where Wal-Mart has located, will no longer be able to compete. While the initial effect may be cheaper services at the Wal-Mart bank, the long-term effect will be reduced choices for consumers as the number of financial services providers shrinks, and as the products become more commoditized.

A Wal-Mart owned bank will not be able to look at other factors beyond a consumer's credit score to understand the customer's individual circumstances and cannot make the customer a loan based on a long-standing relationship and personal knowledge of the customer – something community banks do every day.

Moreover, there is the danger that Wal-Mart will export deposits out of the local community. This has been the current pattern of the larger retailer when it establishes itself in a local community. The retailer's deposits do not stay with local banks, but rather are transferred to the store's central headquarters. This pattern in the past has had a devastating effect on local communities as retail dollars spent in the community are exported elsewhere and do not remain in the community to support local lending and economic development.

The Wal-Mart application also illustrates that the affiliation of banks and nonbanking companies presents conflicts of interest and safety and soundness concerns. Federal Reserve Chairman Alan Greenspan has repeatedly argued that the mixing of banking and commerce presents safety and soundness concerns and poses the specter that the federal safety net protecting depositors of insured institutions will spread to non-depository affiliates, thereby introducing additional risks to the deposit insurance funds and the taxpayers.

Because of the ILC loophole in the Bank Holding Company Act, parent companies of ILCs, unlike other companies that own banks, are not regulated at the holding company level by the Federal Reserve. "Allowing a commercial firm to operate a nationwide bank outside the supervisory framework established by Congress for the owners of insured banks raises significant safety and soundness concerns and creates an unlevel competitive playing field," the Federal Reserve has testified. "Congress has established consolidated supervision as a fundamental component of bank supervision in the United States because consolidated supervision provides important protection to the insured banks that are part of a larger organization and to the federal safety net that supports those banks. Financial trouble in one part of an organization can spread rapidly to other parts. To protect an insured bank that is part of a larger organization, a supervisor needs to have the authority and tools to understand the risks that exist within the parent organization and its affiliates and, if necessary, address any significant capital, managerial, or other deficiencies before they pose a danger to the bank."

Wal-Mart's enormous size make these considerations and the risk posed to the Bank Insurance Fund and taxpayers in the event Wal-Mart experiences financial difficulties more acute.

While the FDIC would have the authority and tools to address safety and soundness problems confined to the Wal-Mart ILC, it lacks the essential tools the Bank Holding Company Act gives the Federal Reserve to oversee and supervise bank holding companies and ensure the safe operation of the overall enterprise. For example, the Federal Reserve's supervisory authority over bank holding companies includes: general examination authority, consolidated umbrella supervision, capital requirements and enforcement authority for unsafe and unsound activities at the parent company or affiliate. This lack of safeguards at the holding company level puts the Wal-Mart bank, the Bank Insurance Fund, and taxpayers at jeopardy for trouble at its parent company.

For the reasons stated herein and in the Sound Banking Coalition's August 17, 2005 letter, we urge the FDIC to reject Wal-Mart's application for federal deposit insurance for a Wal-Mart ILC. The application presents serious public policy issues inherent in the mixing of banking and commerce and in the ILC loophole and warrants a public hearing to allow adequate public comment. The issues presented – conflicts of interest, economic concentration, lack of impartial credit decisions, inadequate holding company supervision, and inappropriate extension of the federal safety net – are amplified by Wal-Mart's size and market clout. The threat of community disinvestment is particularly acute in this case because of Wal-Mart's track record and destructive impact in hundreds of communities across the United States. Our nation's longstanding principle of separation of banking and commerce, reaffirmed in the Gramm-Leach-Bliley Act, is the underpinning for our stable and highly successful economic and financial system, and should not be allowed to be skirted by the world's largest commercial company.

Sincerely,

R E Coffman

R. E. Coffman, Jr.
CEO
Oak Hill Banks

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